

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3011 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SARDAR SAROVAR NARMADA NIGAM LIMITED

Versus

MAHADEV DHANJIBHAI KHOKHAR

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Appearance:

MR YS VYAS for Petitioner

MRS DT SHAH for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/08/97

ORAL JUDGMENT

#. This petition is directed by the petitioner against the Award of the Labour Court at Surendranagar dated 30th July 1993 in Ref.(LCS) No.57 of 1992 directing the petitioner to reinstate the respondent-workman in service on his original post with 50% backwages for the intervening period.

#. The respondent-workman raised an industrial dispute

that the petitioner has terminated his services illegally from 6th December 1992. This dispute has been referred by the Government to the Labour Court for adjudication. In the reference, defence of the petitioner was that it has not terminated services of the workman but the workman himself has stopped to come to work. That defence of the petitioner was not accepted by the Labour Court and taking it to be a case of termination of services of the petitioner in violation of Section 25H of the Industrial Disputes Act, 1947, the impugned Award has been passed. Hence this Special Civil Application.

#. The petitioner has passed an order, zerox copy of which has been filed on record during the proceedings today, i.e. the order dated 21.8.97, under which the respondent has been ordered to immediately resume duties as daily wager driver in the office of Deputy Executive Engineer, Saurashtra Branch, Canal Sub Division, Lakthar. So, the respondent has been given appointment as driver in the same status which he was having earlier to his alleged termination of services, or as per petitioner's case, not reporting for duty.

#. The learned counsel for respondent-workman, Smt.D.T.Shah, under the instructions of respondent-workmen, who is present in the Court, made a statement that the workman is ready to forego his claim of backwages from the date of termination of services till the date of Award.

#. In view of the order aforesaid of the petitioner and the statement made by respondent's counsel, now very narrow controversy in this petition survives to be decided.

#. The learned counsel for the petitioner contended that the Labour Court has committed a serious illegality in holding that the petitioner has terminated the services of respondent. It has further been contended that the respondent-workman himself has abandoned the services and as such, the order of reinstatement should not have been made.

#. On the other hand, the learned counsel for respondent submitted that it is a case where the Labour Court has recorded a finding of fact on appreciating evidence that the services of workman came to be terminated by the petitioner and it is a case of violation of provisions of Section 25H of the Industrial Disputes Act, 1947. It has further been contended that it is a finding of fact which has been recorded on appreciation of the evidence

produced on record by the Labour Court and as such, this Court, sitting under Article 227 of the Constitution of India, may not interfere in the matter. The finding recorded by the Labour Court cannot be said to be perverse or based on no evidence or that the Labour Court has misdirected itself over the evidence.

#. I have given my thoughtful considerations to the submissions made by learned counsel for the parties.

#. The question whether the respondent-workman has himself stopped to come to work is a pure question of fact. After considering the evidence produced on record of the Reference, the Labour Court has recorded a finding of fact that it is not a case of abandonment of services by the petitioner. The Labour Court has accepted that the services of the respondent-workman have been terminated by the petitioner. This finding of the fact is based on appreciation of evidence and the learned counsel for the petitioner is unable to make out any case of perversity in the finding of the Labour Court or any case of finding of the Labour Court based on no evidence. I do not find any illegality in the finding of the fact recorded by the Labour Court which calls for interference of this Court. It is true that jurisdiction of this Court under Article 227 of the Constitution of India, includes judicial review apart from administrative superintendence, but this Court can interfere with the finding of the fact arrived at by the subordinate Court or the Tribunal only when the same is based on no evidence or is based on manifest misreading of the evidence. As stated earlier, the learned counsel for the petitioner is unable to make out the case which falls within jurisdiction of this Court under Article 227 of the Constitution of India. In absence of any case of no evidence or manifest misreading of evidence, this court will not be justified in extending its jurisdiction under Article 227 of the Constitution of India in the present case. The Industrial Disputes Act, 1947, is a special legislation governing the relationships and other service conditions of employer and workmen. Legislature has, in its wisdom, not provided any appeal or revision from the Award of the Labour Court or Industrial Tribunal, as the case may be, to this Court. The object is to give finality to the decisions of the Labour Court or Industrial Tribunal, in the matter of industrial disputes. This Court, sitting under Article 227 of the Constitution of India cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. Exercise of powers of this Court under the aforesaid Article of the Constitution must be restricted to cases

of grave dereliction of duty and flagrant abuse of fundamental principles of law or justice where grave injustice would be done unless this Court interferes. Taking into consideration the totality of the facts of this case, the Award impugned in this Special Civil Application does not call for any interference of this Court, under Article 227 of the Constitution. Even if the matter is taken to be under Article 226 of the Constitution of India, then too the present one is not the case where interference of this Court is warranted.

##. In the result, this Special Civil Application fails and the same is dismissed. However, in view of the statement made by learned counsel for respondent, foregoing the claim of backwages from the date of termination of services of respondent-workman till the date of Award by the respondent-workman, it is clarified that the respondent-workman will not claim that amount from the petitioner. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

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